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# SENATE BILL No. 205

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-5-2.5; IC 27-8-5-19.2; IC 27-8-10-5.1.

**Synopsis:** Health insurance waivers. Provides that an individual policy of accident and sickness insurance or a group policy of accident and sickness insurance under which a certificate of coverage is issued to an individual member of an association or a discretionary group may contain a waiver of coverage for a specified condition if the waiver would be in effect for not more than five years and other requirements are met. Specifies that an offer of coverage under a policy that includes such a waiver does not preclude eligibility for a policy issued by the Indiana comprehensive health insurance association.

**Effective:** Upon passage.

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January 9, 2001, read first time and referred to Committee on Insurance and Financial Institutions.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 205

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-8-5-2.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in  
3 this section, the term "policy of accident and sickness insurance" does  
4 not include the following:

- 5 (1) Accident only, credit, dental, vision, Medicare supplement,  
6 long term care, or disability income insurance.
- 7 (2) Coverage issued as a supplement to liability insurance.
- 8 (3) Automobile medical payment insurance.
- 9 (4) A specified disease policy issued as an individual policy.
- 10 (5) A limited benefit health insurance policy issued as an  
11 individual policy.
- 12 (6) A short term insurance plan that:  
13 (A) may not be renewed; and  
14 (B) has a duration of not more than six (6) months.
- 15 (7) A policy that provides a stipulated daily, weekly, or monthly  
16 payment to an insured during hospital confinement, without  
17 regard to the actual expense of the confinement.



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(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

(b) The benefits provided by an individual policy of accident and sickness insurance may not be excluded, limited, or denied for more than twelve (12) months after the effective date of the coverage because of a preexisting condition of the individual **if the individual received treatment for the preexisting condition during the six (6) month period before the effective date of the coverage.**

(c) An individual policy of accident and sickness insurance may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

(1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of enrollment in the plan;

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of enrollment in the plan; or

(3) a pregnancy existing on the effective date of enrollment in the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

**(e) An individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if:**

**(1) the period for which the exemption would be in effect does not exceed five (5) years; and**

**(2) all of the following conditions are met:**

**(A) The insurer provides to the applicant before issuance of the policy written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.**

**(B) The offer of coverage includes the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.**

**(C) The offer of coverage does not include more than two**

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(2) waivers.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) Upon written request by the insured, the insurer agrees to review the underwriting basis for the waiver and shall remove the waiver if the evidence of insurability available to the insurer at the time of the review is satisfactory. An insured may not make a request under this section more than once in a twelve (12) month period.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy including a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1(a).

SECTION 2. IC 27-8-5-19.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.2. (a) This section applies to a group policy of accident and sickness insurance:

(1) that covers the members of an association or discretionary group; and

(2) under which a certificate of coverage is issued to an individual member of the association or discretionary group.

(b) Notwithstanding section 19 of this chapter, a policy described in subsection (a) may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if:

(1) the period for which the exemption would be in effect does not exceed five (5) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.

(B) The offer of coverage includes the waiver in a separate section stating in bold print that the applicant is receiving

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coverage with an exception for the waived condition.

(C) The offer of coverage does not include more than two (2) waivers.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to review the waiver upon request if:

(i) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(ii) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and that any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(c) The insurer shall require an applicant to initial the written notice provided under subsection (b)(2)(A) and the waiver included in the offer of coverage under subsection (b)(2)(B) to acknowledge acceptance of the waiver of coverage.

(d) An offer of coverage under a policy including a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1(a).

SECTION 3. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) Except as provided in subsections (b) and (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. **However, an offer of coverage described in IC 27-8-5-2.5(e) or IC 27-8-5-19.2(b) does not affect an individual's eligibility for an association policy under this subsection.** Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(b) Except as provided in IC 27-13-16-4, a person is eligible for an



association policy upon a showing that:

- (1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;
- (2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or
- (3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(c) The board of directors may establish procedures that would permit:

- (1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and
- (2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.

(d) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

- (1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and
- (2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(e) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance

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benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(f) Except as provided in subsection (g), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(g) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (b), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

**SECTION 4. [EFFECTIVE UPON PASSAGE] IC 27-8-5-2.5, as amended by this act, and IC 27-8-5-19.2, as added by this act, apply to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after the effective date of this act.**

**SECTION 5. An emergency is declared for this act.**



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